



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,026	07/13/2000	G. Michael Phillips	35512-00035	3955

7590 09/11/2003

Steven E Shapiro Esq
Mitchell Silberberg & Knupp LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064

EXAMINER

RAHMJOO, MANUCHER

ART UNIT

PAPER NUMBER

2676

DATE MAILED: 09/11/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/615,026

Applicant(s)

PHILLIPS ET AL.

Examiner

Mike Rahmjoo

Art Unit

2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/08/2003 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, and 3- 22 are rejected under 35 U.S.C. 103(b) as being unpatentable over Harvard Graphics in view of Thomas et al (US Patent 5,875,462), hereinafter, Thomas.

As per claim 1, 12, and 19- 22 Harvard Graphics teaches plurality of data points on page 11-33, wherein each of the data points include projections in the bar chart and the chart represents measurements of x vs. y which show actual and projected values in different

Art Unit: 2676

intensities (also discussed on 11- 42, 43 where the series are in color or grayscale); and the display characteristic of each data value is a function of the measure of the statistical significance of the estimated statistic included in said data values wherein height is one of the display characteristics which is a function of the measure of the statistical significance in the actual or the projected sales on page 11- 33; and a computer readable medium storing a computer executable process on page 2- 2.

However, Harvard Graphics does not teach obtaining a calculated measure of statistical significance for each of said data values.

Thomas teaches obtaining a calculated measure of statistical significance for each of said data values (one or more unknown values of at least one known characteristics and a set of samples with known values of the characteristics) see for example column 15 lines 25- 61.

It would have been obvious to one of ordinary in the art at the time the invention was made to incorporate the teachings of Thomas into Harvard Graphics to determine the known characteristics, for use by an algorithm wherein the selection of wavelength subsets improves the model's fitness of the determination for the unknown values of the known characteristics see for example the abstract.

As per claim 3, Harvard Graphics teaches data points are displayed in a bar graph that includes a separate bar for each asset shown one per actual bar of the year on the chart of page 11- 33.

As per claim 4, Harvard Graphics teaches each said bar is displayed at an intensity level that is a function of the measure of statistical significance of the measure of the tendency of the value of the asset corresponding to said bar to change on the chart of page 11- 33 wherein each

Art Unit: 2676

bar of the actual and projected sales have different intensities (also discussed on 11- 42, 43 where the series are in color or grayscale).

As per claim 5, Harvard Graphics teaches a height of each said bar is a second function of the measure of the tendency of the value of the asset to change as a result of a change in the data value for the exogenous variable as per discussion of claim 1 and on the chart of page 11- 33 wherein the heights change.

As per claim 6, Harvard Graphics teaches the estimated statistic was estimated using a regression equation, and wherein the measure of statistical significance is a p value that was calculated from the regression equation on page 11- 44 wherein four types of regression (linear, exponential, logarithmic, and power curves) are used.

As per claim 7, Harvard Graphics teaches the function is linear on page 11- 36.

As per claim 8, Harvard Graphics teaches the function is non-linear on page 11- 36(log scale).

As per claim 9 and 18, Harvard Graphics teaches each said data point is displayed as a bar in a bar graph on page 11- 33 where each bar represents the sales of one particular year.

As per claim 10, Harvard Graphics teaches statistical significance is an estimate of a probability that an actual value for said estimated statistic is outside of a specified confidence interval around an estimated value for said estimated statistic on page 11- 33 where the projected sales and the actual sales fall outside of each other by some margin which in this case is in units of millions of dollars.

Art Unit: 2676

As per claim 11, Harvard Graphics teaches calculation of the intensity for each said data point comprises determining 1 minus said estimate of probability (also discussed on 11- 42, 43 where the series are in color or grayscale).

As per claim 13, Harvard Graphics teaches display characteristic is a size of said each data point where on page 11- 33 each bar has different size as per projected or actual sales values.

As per claim 14- 17, Harvard Graphics teaches hue, saturation, brightness and color characteristics on pages 11- 42, 43 and 7- 17 where the series are in color or grayscale.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harvard Graphics.

As per claim 2, Harvard Graphics teaches the data point changes for different years that includes an identification and a measure of the tendency of an asset on the chart of page 11- 33.

However, it does not explicitly teach a measure of a tendency of a value of the asset to change as a result of a change in a data value for an exogenous variable.

It teaches the actual and projected sales as assets.

It would be obvious to one of ordinary in the art that the projected sales encamps many variables e.g. exogenous that contribute to the projections made.

The examiner would suggest amending the claim language of claim 6 to further clarify and make distinct the well-known aspect of “p value”.

Art Unit: 2676

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure 6,317,700, 5,999,193, 6,100,900, 6,195,103, 5,333,244, 4,845,653, 6,232,609, 6,061,640, and 6,072,853.

Inquiry


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Rahmjoo whose telephone number is (703) 305- 5658. The examiner can normally be reached on 6:30- 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (703) 308- 6829. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872- 9314 for regular communications and (703) 872- 9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305- 4750.

Mike Rahmjoo

June 10, 2003


MATTHEW C. BELLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600